

**BEFORE THE KĀPITI COAST DISTRICT COUNCIL
TE URUHI TO KĀPITI ISLAND GATEWAY PROJECT**

Under the Resource Management Act 1991

In the matter of a resource consent application by Kāpiti Coast District Council under section 88 of the Act, to carry out the Te Uruhi to Kāpiti Island Gateway Project

MEMORANDUM OF COUNSEL ON BEHALF OF THE APPLICANT

Dated: 19 September 2022

BUDDLE FINDLAY

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MAY IT PLEASE THE HEARING PANEL:

1. We act for Kāpiti Coast District Council, the applicant for resource consent in respect of Te Uruhi – Kāpiti Gateway Project (the **applicant**).
2. This memorandum:
 - (a) accompanies the evidence filed on behalf of the applicant, and introduces the witnesses;
 - (b) addresses the availability of one of the witnesses; and
 - (c) addresses the implications of Queen Elizabeth II Memorial Day on the timetable to hearing.

Applicant's evidence

3. The evidence for the applicant is filed together with this memorandum, in accordance with the specified timetable,¹ of the following witnesses:
 - (a) Alison Law, a Council officer, who provides an **overview of the project**;
 - (b) John Barrett, giving evidence **on behalf of Ātiawa ki Whakarongotai Charitable Trust**;
 - (c) Naomi Solomon, giving evidence **on behalf of Ngāti Toa Rangatira**;
 - (d) Angus Hulme-Moir of the **Department of Conservation**;
 - (e) Mark Ward, a Council officer, in relation to **economics and tourism**;
 - (f) Megan Taylor, a **transportation engineer**;
 - (g) Rebecca Cray, in respect of **landscape, visual, and natural character effects**; and
 - (h) Emma McLean, on **planning and conditions**.

Witness availability

4. We regret to advise the Panel that one of the witnesses, Mr Hulme-Moir of the Department of Conservation, is unavailable to attend the hearing.

¹ Set out in a letter from the consent authority to Emma McLean, planner advising the applicant, dated 1 September 2022.

5. The status of that evidence is a matter that can be discussed at the hearing. In the meantime, if the Panel has any written questions in respect of Mr Hulme-Moir's evidence, counsel would be happy to convey those to the witness and arrange for answers to be provided to the Panel in writing.
6. Alternatively, other witnesses for the applicant who are also knowledgeable in biosecurity matters and the Department's activities on Kāpiti Island will be present at the hearing and able to assist.

Implications of Queen Elizabeth II Memorial Day

7. Counsel note that 26 September 2022 will shortly be formalised as a public holiday. This has some implications for this matter, if the hearing commences on 3 October 2022 (as currently scheduled).
8. The applicant's strong preference is that the hearing does commence on 3 October 2022, given that various arrangements have been made to that end.
9. Assuming the hearing commences on that date, the following issues require regularisation:
 - (a) the section 42A report was published on Monday, 12 September 2022, a date that was expected to be 15 working days before the first day of the hearing, as required by section 42A(3) of the Resource Management Act 1991 (**RMA**), but that statutory requirement is now unlikely to be met;
 - (b) the applicant's evidence, while filed on the date directed by the Panel, is unlikely to comply with the 10-working-day timeframe set out in section 41B(2) of the RMA; and
 - (c) submitters' expert evidence is due to be filed on the new public holiday; filing it on the next working day would not comply with section 41B(4).
10. To assist the Panel, counsel advise that the applicant supports the relevant statutory timeframes being waived (under section 37) in respect of the section 42A report and any submitter expert evidence received by **4pm on Tuesday, 27 September 2022**.
11. Counsel also respectfully request that the Panel waive the statutory timeframe for filing the applicant's evidence. The evidence is filed on the date directed, and allowing submitters one extra day to file any expert

evidence will mean that no party is prejudiced by the waiver being granted (or by the hearing commencing on 3 October 2022).

DATED this 19th day of September 2022

A handwritten signature in blue ink, appearing to be 'DRB', is positioned above a horizontal line.

David Randal / Esther Bennett

Counsel for the applicant